



COMMONWEALTH of VIRGINIA
Office of the Attorney General

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MEMORANDUM

TO: BRIAN MCCORMICK
Regulatory and Manual Section Manager
Department of Medical Assistance Services

FROM: REATHA B. KAY
Assistant Attorney General

DATE: May 19, 2005

SUBJECT: Final Exempt Regulation Concerning an Increase in the Adjustment Factor for Type Two Hospitals

I have reviewed the attached final exempt regulation to increase the adjustment factor for Type Two hospitals.

Based on that review, it is my view that the Director, acting on behalf of the Board of Medical Assistance Services pursuant to Va. Code §32.1-324, has the authority to promulgate these amendments to the State Plan, subject to compliance with the requirements of Article 2 of the Administrative Process Act and has not exceeded that authority.

The amendments to the regulation increase the adjustment factor for Type Two hospitals to 76 percent pursuant to Item 326(XX) of the 2005 Appropriation Act, which states, in part, that DMAS “shall amend the State Plan for Medical Assistance Services governing Medicaid reimbursements for hospitals to set the adjustment factor for Type 2 hospitals equal to 76 percent, effective July 1, 2005.” Based on the foregoing, it is my view that the promulgation of these amendments is exempt from the procedures of Article 2 of the Administrative Process Act pursuant to Virginia Code §2.2-4006(A)(4)(a).

Brian McCormick
May 19, 2005
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If you have any questions, please contact me at 786-1841.

cc: Kim F. Piner, Esquire

Attachment